



# McCleary City Council

## PROPOSED AGENDA

**March 28, 2012**

### **7:00 Council Meeting**

Flag Salute  
Roll Call  
Minutes (Tab A)  
Public Comment:  
Mayor's Report/Comments:

Staff Reports:            Dan Glenn, City Attorney (Tab B)  
                                     Nick Bird, Director of Public Works (Tab C)

Old Business:            STEP Systems (Tab D)  
                                     Snow Policies (Tab E)

New Business:           Fire District 5 Ambulance Contract (Tab F)

Ordinances:             Snow Policy (Tab G)

Resolutions:

Vouchers  
Mayor/Council Comments  
Public Comment  
Executive Session  
Adjournment

Americans with Disabilities Act (ADA)  
Accommodation is Provided Upon Request

Please Turn Off Cell Phones – Thank You

The City of McCleary is an equal opportunity provider and employer.  
La ciudad de McCleary es un proveedor de igualdad de oportunidades y el empleador.

**CITY OF MCCLEARY**  
**Regular City Council Meeting**  
**Wednesday, March 14, 2012**

FLAG SALUTE Mayor Dent Called the Regular Meeting to order at 7:00 PM with the Flag Salute.

ROLL CALL Council members Catterlin, Reed, Lant and Ator.

ABSENT Council member Schiller was absent. **It was moved by Council member Lant, seconded by Council members Catterlin and Ator to excuse Council member Schiller's absence. Motion Carried.**

STAFF PRESENT Present at the meeting were Dan Glenn, Wendy Collins, Nick Bird, George Crumb, John Graham, and Jennie Reed.

MINUTES APPROVED **It was moved by Council member Ator, seconded by Council member Lant to approve the minutes. Motion Carried.**

PUBLIC COMMENT Charles Wright lives just outside the City on McCleary Road and addressed the Council regarding how high his water bills are due to the additional charge added to customers outside the City limits. He attempted to speak to Nick Bird but was not satisfied with the answer he received and wanted to approach the Council to see if they would address the additional fee. Nick stated that when service is provided outside the City limits, bigger pipes are needed to deliver the water the additional distance to the outside customers.

Dan Glenn responded by saying historically, the charges were put in place because the residents inside the City are the ones that originally paid for the infrastructure and set-up expenses. Outside residents pay an additional fee because they benefit from connecting to the City water system. Mr. Wright asked how long do the outside residents have to pay an additional fee before the original set up fee is paid off and commented on the poor quality of the water that he has to pay such a high price for. He urged the Council to please address the additional charge to outside residents. There are roughly twenty or so customers outside the City that pay the additional fee, which shouldn't be too high of an impact on the City revenues.

Mr. Wright added that he appreciated Paul Nott and the Light & Power crew on the great job that they do. They recently did a job for him and he was impressed with how quick and efficient they are.

Terrie Mount lives on Beck Street. She said a lot of people cannot attend the Council meetings so they are not aware of what happens in the City. She commented that she understands people don't always know how the infrastructure got so deteriorated and suggested the City create a newsletter and add logistics to it, along with other important information that might interest the residents. The Mayor suggested people check the internet and Terrie responded stating there are many people that have gotten rid of the internet due to the economy and personal cutbacks. She urged the Council and staff to consider an informational newsletter.

MAYOR'S REPORT Mayor Dent was impressed by the turnout of the McCleary Fire Department at the cancer awareness stair climb event in Seattle.

CITY ATTORNEY REPORT A written report has been provided to the Council and all questions are welcome.

DIRECTOR OF PUBLIC WORKS REPORT A written report has been provided to the Council and address all questions to Nick Bird.

ORDINANCE NO. 778  
STORMWATER RATES AND  
REGULATIONS REVISION An Ordinance relating to utilities, amending certain sections of Chapter 13.32 MMC and adding a new section thereto; providing severability and an effective date. **It was moved by Council member Ator, seconded by Council member Lant to adopt Ordinance No. 778. Roll call taken in the affirmative. Ordinance Adopted.**

RESOLUTION NO. 640  
STORMWATER UTILITY RATES A Resolution establishing rates and charges in relation to the storm water utility of the City; repealing Resolution 545; and providing an effective date. **It was moved by Council member Lant, seconded by Council member Ator to adopt Resolution No. 640. Resolution Adopted.**

STEP SYSTEMS Discussion took place regarding STEP systems. Mayor Dent does not support STEP systems for developments. Council member Lant requested to table the topic until Council member Schiller is in attendance. **It was moved by Council member Lant, seconded by Council member Catterlin to table the step system decision until the next meeting. Motion Carried.**

TRANSFORMER BIDS Seven bids were received for supplying transformers in accordance with the bid package. HD Supply was the lowest bidder. The 2012 budget includes \$50,000 for transformer purchases and \$130,000 for Phase 1 of the cutover. Approximately \$72,000 of the \$130,000 cutover amount budgeted is for purchasing transformers, making the total amount budgeted for transformer purchases in 2012 to be approximately \$122,000. **It was moved by Council member Catterlin, seconded by Council member Lant to award the transformer purchase to HD Supply, out of Portland, Oregon, for a total cost of \$73,188.43, contingent upon no bid error being claimed by the company. Motion Carried.**

SNOW POLICIES **It was moved by Council member Lant, seconded by Council member Reed to table snow policies until the next meeting. Motion Carried.**

WILDCAT CREEK AQUIFER JOINT MANAGEMENT PLAN Information was given to the Council regarding the Wildcat Creek Aquifer Joint Management Plan. No action to be taken.

FIRE DISTRICT 5 AMBULANCE CONTRACT The draft is for a three-year term with an annual adjustment for the second and third year of no more than 5% and no less than 2% with the ability of FD #12 to withdraw if it can not obtain the passage of a levy. All other terms of the existing contract will not be changed. Dan Glenn recommended the Council to authorize the Mayor to enter into a contract implementing the indicated steps and the increase to be based upon the amount the City currently pays. **It was moved by Council member Lant, seconded by Council member Reed to authorize the Mayor to enter into the basic draft of the Fire District #5 contract. Roll call taken in the affirmative. Motion Carried.**

RESOLUTION NO. 641 IMPLEMENTATION OF ORDINANCE 777 A Resolution setting fees and conditions in the implementation of Ordinance No. 777. **It was moved by Council member Ator, seconded by Council member Lant to adopt Resolution No. 641. Resolution Adopted.**

APPROVAL OF VOUCHERS Vouchers/Checks approved were 34418-34419 including EFT's in the amount of \$649.12, 34453-344977 including EFT's in the amount of \$64,620.68, and 34505-34544 including EFT's in the amount of \$173,670.39.

Payroll Checks approved were 34350-34452 including EFT's in the amount of \$79,621.91 and 34216-34349 including EFT's in the amounts of \$87,493.53.

**It was moved by Council member Ator, seconded by Council member Reed to approve the vouchers. Motion Carried.**

PUBLIC COMMENT Helen Lake asked when the City-wide clean up will be and it was announced it will be on Saturday, April 28, 2012.

EXECUTIVE SESSION None.

MEETING ADJOURNED **It was moved by Council member Lant, seconded by Council member Ator to adjourn the meeting at 8:14 PM. The next meeting will be on March 28, 2012 at 7:00 PM. Motion Carried.**

Mayor Gary Dent: \_\_\_\_\_

Clerk-Treasurer Wendy Collins: \_\_\_\_\_

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL, City of McCleary  
FROM: DANIEL O. GLENN, City Attorney  
DATE: March 22, 2012  
RE: LEGAL ACTIVITIES as of MARCH 28, 2012

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure.

1. **EMS SERVICE CONTRACT**: Pursuant to the authorization at the March 14<sup>th</sup> meeting, I have prepared a draft contract.

The vast majority of the contract is from the 2009 adopted version. In drafting it, I have sought to underline most of the new or changed areas. However, for ease of reference the primary areas of change are as follows.

A. Term: 2012-2014

B. Amount: Adjusted from 2011 amount by an increase of 30%. (Based upon action of FD #12, they did not approve that increase, but rather have offered a figure which was contained in the February, 2012, offer from FD #5. This is an amount which represented an increase of 6.3% over the figure the District paid in 2011. The position apparently was based upon both fiscal limitations and service calculations contained in that letter.)

C. Payment: The amount is retroactive to January 1, 2012. The agreement is the "catch up" will be spread over the last 9 months of the year. Thus, you will see upon Attachment #1 the annual figure for each entity and the monthly figure. That monthly figure has been developed by Ms. Collins through subtracting from the annual figure the amount paid through March, dividing the remainder by 9, and setting that as the monthly payment. (The payments for January through March reflected a 3.6% CPI increase. Thus, it is possible the monthly payment for 2013 may not need to be increased so long as the CPI does not go

too high.) The figure has been provided to Chief Prater and he has concurred that it is correct.

D. FD #12 Right to Withdraw: \$13.7 is present at the request of FD #12. The concern arises from the risk that its voters will not approve a special EMS levy to be presented in November. (They do not have the authority to impose the household EMS charge.) It gives them the right to withdraw if it does not pass, but doesn't mandate that they withdraw. FD #5, in its letter of March 2, 2012, desired language that, if such an event occurs, the remaining parties would meet to "discuss options and directions to continue EMS services to their respective areas." Not desiring to have such an action be the basis for a reopening of the contract, the pertinent language of the section allows the calling of such sessions, but does not trigger a termination ability.

E. Joint Response Request: In the letter of March 2, Paragraph 3 on Page 2 reflected a request that the entities meet and implement a joint response situation. Chief Prater has set out their rationale. It is recognized there is a difference between meeting to discuss such an approach and the requiring of the implementation of the response requirement as a condition of the contract. The language in Chief Prater's original communication did not appear to make it a mandate, but rather a goal. To make that more clear, I have inserted three words to the original language to make clear that \$3.6 does not mandate the implementation of such a program by the October 15 date.

In communicating with Chief Prater, I have the impression that approaching this issue in good faith discussions seeking a procedure is a significant issue to District #5. The Mayor and I have discussed a possible alternative approach since the request is that the responder be on scene to assist and not to provide medical services.

Taking into consideration the reality that FD #12 is not going to approve the 30% increase and that FD #5 is unlikely to accept FD #12's approach, Elma has approved the contract so long as, at a minimum, McCleary and FD #5 concur.

Based upon a communication from Chief Prater, at a special meeting they held on the 21<sup>st</sup>, the Commissioners have held up final action for two reasons. The first is they receive advice from their insurer on the scope of the hold harmless clause which is no different than prior years. The second is obviously the FD #12 situation and its impacts. However, it is my impression that, if the City approves the contract as Elma did with the authority to make it a three party contract, it will likely move forward.

My recommendation is that the Council approve the contract in the same manner as Elma; the City will sign the contract on the laid out terms so long as it fiscal responsibility is not greater than that laid out by Ms. Collins, a 30% increase over the amount the City paid last year. Then, since Elma has already taken that action, if either FD #5 has approved or approves at its next meeting, the contract is in effect among the three entities. Hopefully, the discussions between the two fire districts will lead to a resolution of their area of fiscal separation and an agreement between them, either as an addendum to this contract or as a separate contract. Thus, final approval by you of this draft may not be the last time the matter is revisited.

2. WINTER WEATHER ORDINANCE: Mr. Bird has requested that I remove a section which mandated an owner of a structure which deposited snow on the rights of way, normally because of sliding off of roofs and the like, be removed. That is done in the B draft. What has been added is a requirement that the snow removal program be created and then reviewed and updated on a periodic basis.

Obviously, it is my hope the City will not need this ordinance for months, if not years.

3. AUDIT EXIT CONFERENCE: Given an initial indication by the SAO staff that all members of the Council and Mayor had to be invited to attend an exit conference, the Mayor authorized Ms. Collins to give notice of a special meeting for that sole purpose. Since it is in the middle of a work day, attendance is a not insignificant challenge to elected officials who would have to interrupt their normal work schedule. For future purposes, however, I have reviewed the SAO's guidelines on this matter to confirm an understanding I had developed from a prior situation.

As you are aware, the Council has a Finance Committee. That Committee was created at the suggestion of the SAO following a prior audit. It was my understanding that attendance by members of the Finance Committee was the appropriate position in terms of attendance at an exit audit so as to avoid both the risk of violating the Open Public Meetings Act and undue burdens upon elected officials who would have to take time off from work to attend. That such attendance by Finance Committee members is the appropriate pattern is still recognized in the SAO guidelines.

4. STEP SYSTEMS: I have not yet had the opportunity to review the material developed by Mr. Bird in this area. As you are aware, Montesano has utilized only STEP systems since around 1991. Thus, I have had the opportunity to listen to the comments

on the system for something around twenty years. The following is based upon my perception of those comments.

The primary plus, from the standpoint of installation, was and is that since the lines are pressurized and not dependent upon gravity to move the effluent, they can be installed more easily and at less expense and at a level and relatively shallow depth. This makes property which would be difficult to develop more easily developed. On the negative side is that the onsite tanks and pumps must be owned and maintained by the City. Thus, the property owner must grant the City an easement for placement and maintenance of the equipment. (The electricity to operate the pumps is provided by the property owner.) A second is that only the liquids are allowed to enter into the line and thus the tanks themselves must be pumped, again a duty of the City. (One problem Montesano has faced that McCleary would not face is the tendency of folks who are involuntary guests at the County Correctional Facility tend to put some materials into the tank which make the tanks malfunction and require more frequent pumping than would be anticipated. Based upon discussions, the County has taken over the responsibility for the maintenance of these tanks.)

If and when the Mayor and Council decide to allow this type of system, it would be my recommendation that a rate schedule be developed especially for the system. It would include what would be considered normal charges which would be based upon projected demands as to repair, pumping, and the like. I would recommend inclusion of a special assessment/charging ability if a tank were to require unusual pumping or repair. For instance, if restaurants are not careful, their oils can create problems.

The bottom line is the systems are like all systems, whether the traditional gravity flow, grinder pump based, or otherwise, it is a cost benefit analysis situation.

Enough said on the subject.

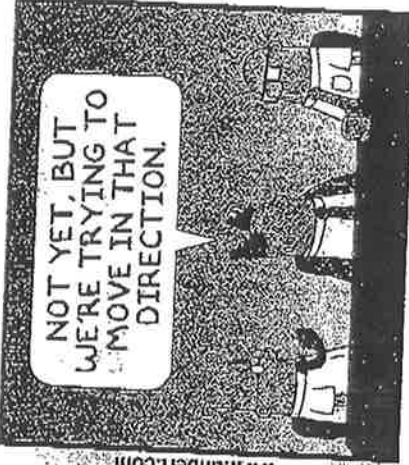
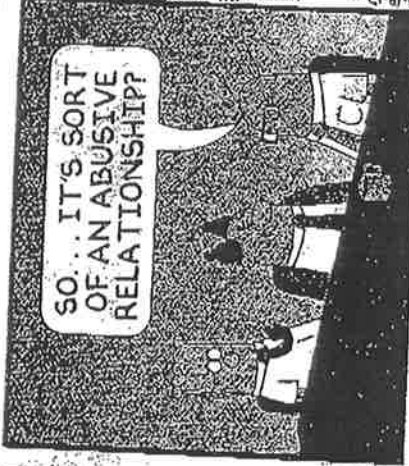
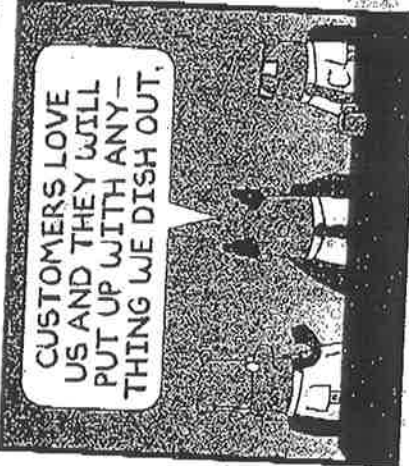
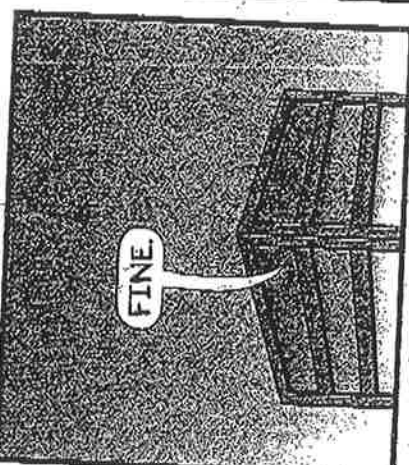
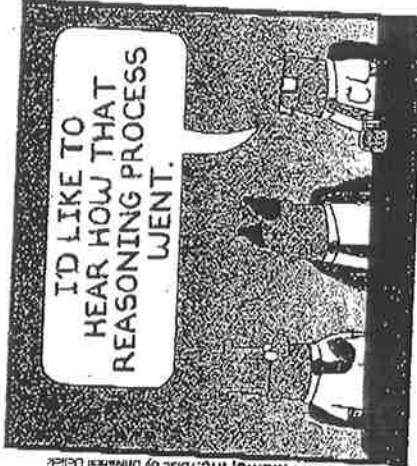
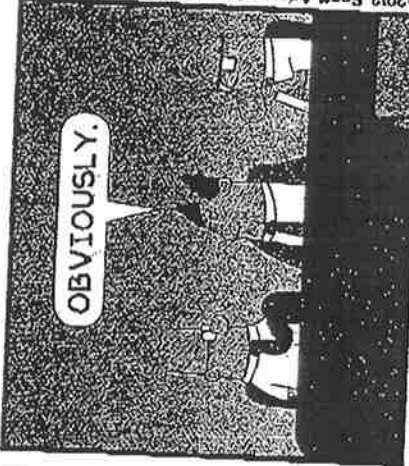
5. **FISCAL ANALYSIS**: Given the EMS situation and the various perceptions which might be held by each party, I recently read a *Dilbert* which might, but hopefully does not, represent how the management of FD #5 views the attitude of the three entities. I have attached it for your consideration.

As always, this is not meant to be all inclusive. If you have any questions or comments, please direct them to me.

DG/le



**DILBERT** BY SCOTT ADAMS



DilbertCartoonists@gmail.com

©2012 Scott Adams, Inc./Dist. by Universal Uclick

www.dilbert.com



## **STAFF REPORT**

To: Mayor Dent  
From: Nick Bird, Director of Public Works  
Date: March 22, 2012  
Re: Current Non-Agenda Activity

---

### **Winter Storm**

The State Emergency Management Division (EMD) public assistance kick off meeting is this Friday morning. Additional details will be provided at the meeting on the 28<sup>th</sup>.

### **Well 2 & 3 Project**

Again, the Site Plan Review and Environmental Review are still in process as well as the railroad permit review. We expect the first round of comments by DOH near the end of the month. The energy audit, required by the legislature, is in draft form and will be submitted to the Public Works Board for review and approval shortly.

### **Bushing Replacement**

No additional information at this stage. Item remains as a place holder.

### **Highline Project**

No additional information at this stage. Item remains as a place holder.

### **Cedar Heights**

At the time of report preparation, no excavation permit has been received. We anticipate receiving the excavation permit as previously discussed in the near future.

### **City Engineer RFP**

As of 12:30 PM, six firms have provided documentation; however at the time of preparing this report, we have not reviewed the documentation. Based on the size of the packages, as 10 copies of the statement of qualifications (SOQ) were required, it appears that most have submitted documentation for our Professional Services Roster, rather than submitting the SOQ documentation. A team of four staff members and the Mayor will be evaluating the packages on Friday and Monday for compliance with the request for proposals, with potential interviews to be scheduled for Tuesday and Wednesday (as necessary). Our goal is to provide a recommendation at Council on Wednesday in an effort to begin negotiations with the recommended firm.

### **Reservoir Inspection**

Repairs have been made to the 150,000 gallon reservoir, however the coating must cure for seven or more days, thus we do not anticipate filling the tank until March 27<sup>th</sup>. From there we must let the tank soak for seven days and test for Volatile Organic Chemicals (VOCs) and bacteriological contamination. If both of these tests come back clean, the tank will be back in service before April 6. If there are any concerns with either test, we will need to drain the tank (off line) and correct the problem by additional cure time if VOCs are detected and additional disinfection if the bacteriological test is positive.

### **Summit II**

The Performance Bond issue is still underway. We hope to address this in the near future.

### **M&M Properties**

After notification that the Site Plan Review approval had expired, the developer was not overly concerned about going through the Site Plan Review process again. The biggest concern on their part is financial impact of connection fees. Typically, multifamily units are evaluated differently than single family residences, as these multifamily residences do not use the quantity of water and therefore sewer as does a typical single family residence.

The developer has provided water use data for similar units in Montesano and will be evaluated accordingly. As this continues to develop, we will be sure to keep you informed.

## STAFF REPORT

To: Mayor Dent  
From: Nick Bird, P.E., Director of Public Works  
Date: March 22, 2012  
Re: STEP Systems

---

Tabled March 14, 2012

At this stage in the game, we would like to move forward and address this issue in some fashion or another.

Our suggestion would be to move forward revising the development standards to allow STEP systems on a case by case approach for single lot development, similar to the approach used for grinder pumps, as determined appropriate by the City Engineer.

We may want to make this more ridged and remove grinder pumps and only allow STEP system in areas where gravity collection is not possible. Grinder pumps are currently allowed by the Development Standards as approved by the City Engineer for single family infill lots where gravity systems are not feasible (note that this does not mean economical). As grinder pumps effectively mulch the waste, which impacts the screens and treatment process at the Wastewater Treatment Plant, we would prefer to not allow grinder pumps.

After further review and based on the best available data, there are currently four pumped systems within our City Limits, one of which is a STEP system (historically treated as a lift station). There are 15 units that currently do not have sewer service and are still using septic systems within our City Limits.

### **Staff Recommendation:**

The staff recommendation is to revise the development standards, replacing the allowance of grinder pumps for single lot infill trouble spots with STEP systems on a case by case basis.

### **Action Requested:**

Please consider letting staff know how you envision STEP system usage within the City of McCleary so the appropriate provisions can be made.

## **STAFF REPORT**

To: Mayor Dent  
From: Nick Bird, P.E., Director of Public Works  
Date: March 22, 2012  
Re: Snow Policy

---

Tabled on March 14, 2012.

Last meeting (Feb. 22) an ordinance was discussed verbally that was being presented by the City Attorney for Elma and Montesano regarding snow removal. Additionally, citizen complaints provided at the Council meeting on January 25, prompted us to do some investigatory work in the snow policy arena. After reviewing some different policies, Todd and I believe that we can mold the City of Spokane's and City of Kennewick's policies together to create a policy here.

We have not started the policy yet, but are trying to incorporate language into the proposed snow removal ordinance to begin moving forward.

### **Staff Recommendation:**

As the snow removal ordinance has been reviewed no additional comments or suggested revisions have been identified. If the ordinance meets your needs and addresses components you believe should be addressed, staff would suggest adopting the ordinance.

### **Action Requested:**

Please consider adopting the draft ordinance.

## INTERLOCAL AGREEMENT

THIS AGREEMENT is made and entered into upon the dates set out below by and between Grays Harbor Fire District #5, Washington (hereinafter known as the Provisioner, the District, or Fire District #5), and Grays Harbor Fire District #12, the City of McCleary, and the City of Elma (hereinafter known as the Entities).

### RECITALS

A. RCW 39.34.080 authorizes public fire districts to enter into contracts with one or more public agencies to perform service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: PROVIDED, that such contract shall be authorized by the governing body of each party to the contract.

B. The Parties have exchanged proposals in relation to the continuation of the provision of emergency medical services by the District to those within the Entities jurisdictions. The entities have reached an agreement as to the terms and conditions for the provision of and payment for such services.

C. The Parties wish to memorialize the terms of that Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt of which is acknowledged by all Parties, it is agreed as follows:

#### Section 1. Term, Termination, and Renewal.

1.1. This agreement shall commence on the 1<sup>st</sup> day of January, 2012, (the "Commencement Date") and shall expire on December 31, 2014, (the "Initial Term") unless the Parties enter into an extension agreement on or before October 15, 2014, or such other later date as may be agreed to

subsequently in writing by all Parties. The Parties shall commence negotiations as to any extension on or before August 1, 2014.

1.2. The Initial Term is subject to earlier termination in accordance with Section 3 hereof.

Section 2. **Duties of Fire District 5.** Throughout the Term, the District shall be responsible for the following duties:

2.1 **Ambulance and Emergency Medical Services.** Fire District 5 shall operate and staff an Advanced Life Support ambulance service. The Ambulance Service shall stock and maintain at least two ambulances in accordance with ALS (Advanced Life Support) standards. The Ambulance Service shall operate with at least one ambulance 24 hours per day, seven days per week. Additional ambulances may be utilized for back-up purposes as needed. The Ambulance Service shall respond to all 911 aid calls occurring within the entities in accordance with Chapter 246-976 WAC with the exception of the calls which are identified as Public Assistance Calls which shall be responded to by the respective Entities within their individual boundaries. The formal written definition of this excluded call for service shall be provided in writing to the Entities by the District.

A. **Performance Standards.** Fire District 5 shall operate the Ambulance Service in compliance with the requirements set forth in 246-976 WAC for the provision of Ambulance Services. The Ambulance Service shall meet requirements of response time and availability set forth therein.

B. **Management.** The District's Board of Commissioners shall manage the Ambulance Service.

C. **Staffing.** Fire District 5 shall staff the Ambulance Service at a level of service of no less than one paramedic and one emergency medical technician at all times unless a different level of staffing is agreed to by the Parties in writing.

D. Response Plan.

1. Fire District 5 will dispatch an appropriately staffed ambulance to all 911 aid calls within the Entities within its capabilities other than a call identified as a Public Assistance call.

2. Fire District 5 shall provide emergency medical and transport services as necessary to all ALS and BLS patients originating within the Entities.

3. Fire District 5 shall maintain response times, service levels, and availability consistent with, and not less than, the minimum requirements set forth in Chapter 246-976 WAC. The District shall provide pre-hospital and paramedic services to the residents of the Entities at no lesser level than provided to residents of the District subject to the provisions of Section 2.4.

E. Rehabilitation and Standby. Fire District 5 shall provide rehabilitation and standby services to the Fire Departments of the Entities for major fire incidents. This function shall be ideally performed by off-duty Fire District 5 EMS personnel to protect the availability of the on-duty unit though the on-duty unit may initially respond.

F. Service Limitation. The above services shall be rendered on the same basis as such services are provided to areas within the District, but the District assumes no liability for failure to do so by reason of any circumstances beyond its control. In the event of simultaneous calls whereby facilities of the District are taxed beyond its ability to render equal services, the officers and agents of the District shall have discretion as to which call shall be answered first. The District shall be the sole judge as to the most expeditious manner of handling and responding to emergency calls.

**2.2 Notice of Proposed Rate Changes.**



A. In the event the District undertakes consideration of an action which would result in a change in the fees and costs charged to the individual user of its service, whether related to the response itself, a mileage charge, or supplies provided in the course of a response, it shall provide the Entities with written notice of the proposed changes no less than twenty-one days prior to the date at which the District's Commission will consider adoption of any such proposed change.

B. The District's Commission will take into consideration in good faith any concerns or recommendations the Entities may have in reference to said changes. Any rates established shall not distinguish between service provided to individuals within the boundaries of the Entities limits and service provided to individuals within the boundaries of the Fire District.

2.3 **Provision of Information.** The District shall provide the Entities such information as may be reasonably requested in relation to the performance of this contract, including such matters as call levels and totals, fiscal performance, and operational status and projections.

3. **Termination for cause.** This agreement may be terminated prior to the expiration date of the Term specified in Section 1 for cause. This shall apply in the event that a party contends the other party has failed to comply with a duty created by this agreement. In that event, the party shall give the other party written notice specifying in reasonable detail the duty breached. In the event the recipient party does not take reasonable steps to correct the failure within fourteen days of receipt of the notice, then the other party may give written notice of its decision to terminate the agreement 90 days following the date of the giving of the notice.

4. **Fiscal Matters.** In recognition of the importance of the contracting Entities' understanding of the District's fiscal operations, the District agrees to make its budgetary records and information available to representatives of the contracting Entities upon request of the entities, but in any

event no more frequently than quarterly. In furtherance of that, the District's Chief Financial Officer shall cooperate fully in responding to any requests for information, as well as to meeting with the contracting parties' representatives during the course of the review of the District's fiscal operations.

5. Compensation:

5.1. For provision of the services to be provided by the District pursuant to this Agreement for the year 2012, the three entities shall pay to the District the sums set forth in Paragraph A of Attachment #1. The responsibility of each of the Entities shall be as set forth upon that attachment.

5.1.A. The equal monthly installment shall be paid by the each of the Entities directly to the District with an equal amount to be paid on or before the 15<sup>th</sup> day of each month thereafter during the term of this contract. In recognition of the payment protocols in effect for Fire District #12, its payment for may be made on or before 5<sup>th</sup> of each month in light of the pattern that County Treasurer issues warrants for such payments upon behalf of Fire Districts with each payment thereafter during the term of this contract to be made in the same manner and time frame.

5.1.B. In recognition of the retroactivity of the payment amounts and the fact that a cost of living adjustment was made commencing with January 1, 2012, to achieve full payment of the adjusted amount for 2012, the monthly payment of each Entity commencing with the payment due for April shall be shall be in the amount shown in Paragraph B of Attachment #1.

5.2. As of January 1, 2013, and January 1, 2014, the annual amount to be paid to the District by the three contracting entities shall be adjusted by a percentage established as the average of the Seattle-Tacoma-Bremerton Area Bi-Monthly Index CPI-U (October to October) and the US All City Average (November to November). [Example: S-T-B Area Bi-monthly Index CPI-U is 4.0% and the US All City

Average CPI-U for that period is 3.0%. The adjustment to be utilized is 3.5%.) In no event shall the adjustment be less than two (2) percent nor greater than five (5) percent.

6. **Notices.**

6.1 Any and all notices or communications required or permitted to be given under any of the provisions of the Agreement shall be in writing and shall be deemed to have been given upon receipt when personally delivered or two (2) days after deposit in the United States mail if sent by first class, certified mail, return receipt requested. All notices shall be addressed and delivered to the parties at the addresses set forth below or at such other address as a party may specify by written notice to the other party. Further, as to any notice not personally delivered, it shall be mailed with one copy being sent by first class mail, postage prepaid, and the other by certified mail, return receipt requested.

6.2. Any notice to be given to either of the Cities shall be given in writing to the Clerk-treasurer of the City by leaving that notice at the Office of the Clerk-treasurer during normal business hours or mailing it as set forth above to the attention of the Clerk-treasurer of the City as follows:

Elma: P.O. Box 3005, Elma, WA 98541.

McCleary: 100 S. 3<sup>rd</sup> Street, McCleary, WA 98557.

As to Fire District #12, notices shall be given in writing by delivering the notice to the individual serving as Chair of its Board or by mailing it as set forth above to the District at the following address:

P.O. Box 3338, McCleary, WA 98557.

6.3. Any notice to be given to the District shall given in writing to the District by leaving the notice with individual in charge of the emergency medical service

division of the District or by mailing it to the Grays Harbor Fire District #5, P.O. Box 717, Elma, WA 98541.

7. **Entire Agreement/Modification.** This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior negotiations or discussions with respect thereto. This Agreement may be amended or modified by written instrument signed by the parties hereto after approval by their respective governing bodies. Such amendments may be for the purposes of, among other things, adding or deleting parties to this Agreement.

8. **Assignment.** No party to this Agreement may assign its rights or obligations hereunder.

9. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original, but all of which taken together shall constitute but one and the same instrument.

10. **Filing Requirements.** Upon execution of the Agreement, the parties shall file or post a true and complete copy thereof in compliance with the provisions of Chapter 39.34 RCW.

11. **Authorization.** Each Party does hereby represent and warrant to the others that it is duly authorized to enter into and to carry out the Terms of this Agreement.

12. **Indemnification & Insurance:**

12.1 Any and all claims, suits, or judgments for liability which hereafter arise on the part of any and all persons as a direct or indirect result of the acts or omissions of the District (including its officers, employees, and agents) in carrying out its duties under this Contract shall be the sole obligation of the District. The District shall defend, indemnify, and hold harmless the Entities, (including their officials, officers, employees, and agents) in full, including costs, expenses, and attorneys' fees, for any and all acts or failures to act on the part of the District, its officers, agents, and employees.

12.2 The District shall purchase and maintain such insurance as will protect against claims, damages, losses and expenses arising out of, or resulting from, all activities relating to this Contract. Such insurance coverage shall name the Entities as additional named insureds and shall be for a minimum of the following amounts:

- A. Bodily Injury liability - \$2,000,000
- B. Property Damage liability - \$1,000,000

The limits set out above shall be per incident limits and not aggregate limits. Certificates of Insurance in accordance with this paragraph shall be filed with the Clerk-treasurer of each of the Cities and with the Chair of the Commission of Fire District #12 within thirty calendar days of the effective date of this Contract. Such policies shall provide that the Entities shall receive notification from the insurer no less than ninety calendar days prior to any cancellation, expiration, or termination of the policy.

**13. Other Provisions:**

13.1 **Severability**: Each provision of this Contract stands independent of all other provisions. If any provision of this Contract or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application. Should any provision be adjudged invalid, that judgment shall not invalidate the total Contract; only provisions judged invalid shall not be enforced.

13.2. **Dispute Resolution & Enforcement**:

A. In the event of any dispute arising out of this Agreement, the Parties agree they shall attempt to resolve the dispute by informal discussions. In the event such efforts are not successful, they may submit the dispute to non-binding mediation and binding arbitration under the then prevailing rules of the American Arbitration Association: PROVIDED,

that, in the event either party objects to the submission of the matter to arbitration within 30 days after demand for arbitration has been filed with an appropriate agency, then the procedure shall be terminated and the matter shall be processed as the Parties deem appropriate through the Courts of the State of Washington.

B. In the event of resolution of a covered dispute by either arbitration or litigation, in addition to any other relief granted to the substantially prevailing party, if any, the arbitrator or court shall award that party reasonable attorneys' fees and costs incurred in prosecuting or defending the matter, as the case may be.

C. Any action at law, suit in equity, or judicial proceeding for the enforcement of this contract or any provisions hereto shall be instituted only in the Courts of competent jurisdiction within Grays Harbor County, Washington.

13.3. **Interpretation:** Each party has had the opportunity to have this Agreement reviewed by Counsel of its choice prior to execution. Therefore, the rule of interpretation against the drafter shall not apply.

13.4. **Taxes:** As an independent contractor and governmental entity, the District is solely responsible for the payment of all payroll taxes (including but not limited to FICA, FUTA, federal income tax withholding, workers' compensation, and state unemployment compensation) on behalf of all persons providing services pursuant to this Contract. Further, the District shall maintain any and all business and other required licenses. The Entities reserve the right to require annual certification by the District of its compliance with the terms of this paragraph and, at its own expense, to have the compliance confirmed by a Certified Public Accountant or such other qualified financial professional as it may deem appropriate.

13.5. In the event one of the three recipient contracting parties provides facilities or equipment to the

District for use in the District's operations required under the terms of this contract, prior to such utilization, an amount shall be agreed upon between the District and the providing entity. That amount shall be credited against the monetary amount which the providing entity would otherwise be required to pay under the terms of this Contract.

13.6. In recognition of the District's desire to develop a program of joint response to calls within the boundaries of the respective Entities, it is agreed the Fire Chiefs of the respective entities shall meet to undertake discussions with the goal of developing a program of joint response to EMS calls within their respective Department's boundaries with a goal, but not a requirement, of the implementation of such a program by October 15, 2012.

13.7. In recognition of fiscal challenges facing Fire District #12 and the anticipation that its funding may depend upon the passage of a special levy, it is agreed that if such a levy fails, Fire District #12 may give notice of withdrawal from this contract as of December 31, 2012. In the event of such withdrawal, it is agreed that upon the request of any of the remaining three parties, a representative of each of the three parties shall meet to discuss the possible operational changes which might become appropriate as the result of such withdrawal.

EXECUTED by the District this \_\_\_\_\_ day of March, 2012.

GRAYS HARBOR COUNTY FIRE  
PROTECTION DISTRICT NO. 5



---

AGREEMENT FOR EMS -A- 11  
3/15/2012

EXECUTED by the City at the CITY OF ELMA this \_\_\_\_\_  
day of March, 2012.

CITY OF ELMA:

\_\_\_\_\_  
DAVID OSGOOD, Mayor

ATTEST:

\_\_\_\_\_  
DIANA EASTON, Clerk-treasurer

EXECUTED by the City at the CITY OF McCLEARY this \_\_\_\_\_  
day of March, 2012.

CITY OF McCLEARY:

\_\_\_\_\_  
D. GARY DENT, Mayor

ATTEST:

\_\_\_\_\_  
WENDY COLLINS, Clerk-treasurer

EXECUTED by GRAYS HARBOR FIRE DISTRICT #12 this \_\_\_\_\_  
day of April, 2009.

GRAYS HARBOR FIRE DISTRICT 12:

AGREEMENT FOR EMS -A- 12  
3/15/2012

\_\_\_\_\_  
JERRY BANKS, CHAIR

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_  
Secretary to the Board

ATTACHMENT #1

A. ANNUAL AMOUNT FOR 2012 BY ENTITY

1. McCleary	\$76,776.15
2. Elma	
3. Fire District #12	\$32,266.22

B. MONTHLY PAYMENTS FOR 2012 COMMENCING AS OF APRIL, 2012

1. McCleary	\$ 6,831.11
2. Elma	
3. Fire District #12	\$, 2,688.85

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO STREETS & SIDEWALKS, ADDING A NEW CHAPTER TO TITLE 12 OF THE MUNICIPAL CODE, ESTABLISHING REGULATIONS & PENALTIES, & PROVIDING AN EFFECTIVE DATE.

R E C I T A L S:

1. The snow and ice storm of January, 2012, was a challenge for all in terms of what was required to remain safe and operational.

2. One of the matters identified as a result of that storm was the problem resulting from a lack of formal regulation as to snow removal from private property, including parking lots, and its placement upon City streets and sidewalks.

3. The Council and Mayor have received the recommendation of City staff as to implementation of regulations in relation to such removal so as to not interfere with the ability of the City to maintain the public rights of way or the ability of its Citizens to walk upon the sidewalks or travel upon the City's streets.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I. Depositing snow or other debris from private property on streets, sidewalks prohibited.

ORDINANCE -A- 1  
03/09/2012  
DG/le

CITY OF McCLEARY  
100 SOUTH 3RD STREET  
McCLEARY, WASHINGTON 98557

Subject to the exceptions set forth in Section II, no person, firm, or corporation shall shovel, push, doze or by other means remove any snow nor any other debris, including tree trunks or limbs and brush, from any commercial property or driveway, any parking lot, any private driveway or other private property and deposit the same upon any curbing, parking strip, sidewalk, or upon any alley or city street.

SECTION II: Exceptions.

The provisions of Section I of this ordinance shall not apply to the situations:

2.1: The removal of snow from any public sidewalk.

2.2 Shoveling or otherwise removing any snow from any building or other structure situated on private property and depositing the same in any street or alley within the corporate limits of the city so long as such snow is immediately loaded upon a truck or other vehicle and removed from such street or alley. (~~Snow sliding from roofs of any building or other structure upon any street or alley shall be construed to have been removed by the owner or tenant thereof and the same shall be immediately removed by truck or other vehicle from such street or alley at the expense of the owner or tenant.~~)

SECTION III: The Director of Public Works shall develop such policies as may be necessary to implement the provisions of this ordinance: PROVIDED THAT, any such policies shall be submitted to the Council for their review and approval.

They shall be reviewed upon such schedule as may be deemed appropriate, including after any weather event which required the activation of the policies: PROVIDED THAT, the review shall be undertaken no less often than every three years.

**SECTION IV: Penalty for violations.**

Any person found to have violated the terms and provisions of this ordinance shall be subject to the penalties set forth below, said penalties and provisions being specifically made applicable to such violation.

A. Upon a finding of committed as to a first violation of this ordinance in any one calendar year, an infraction penalty of up to two hundred fifty dollars, but in no event less than one hundred dollars.

B. In the event that a person is charged with a second violation of this ordinance within any twelve-month period and either a prior alleged violation is still pending or the person has been found to have committed that prior infraction, then in the event of a finding of committed as to this second charge, the penalty imposed may be up to five hundred dollars: PROVIDED THAT, the monetary penalty shall be no less than one hundred fifty dollars. None of said one hundred fifty dollars is subject to suspension or deferral.

C. In addition to such fines or penalties as may be imposed pursuant to this section upon the finding of a violation of this chapter or a conviction of a violation of this chapter,



the court may impose such restitution for losses as it finds appropriate that have arisen out of the incident. Each day's violation, including allowance of removed snow deposited upon any sidewalk, street or alley to remain upon such sidewalk, street, or alley, shall constitute a separate offense and upon a finding of committed thereon, a separate penalty shall be subject to imposition for each day's offense.

**SECTION V: Codification.**

Sections I through III inclusive shall constitute a new chapter in Title 12 of the Municipal Code.

**SECTION VI: Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**SECTION VII: Effective Date.**



SIGNED AND SWORN to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2012, by WENDY COLLINS.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF  
WASHINGTON, Residing at:  
My appointment expires: